National Emergency Number Association
Association of Public-Safety Communications Officials-International, Inc.
National Association of State Nine One One Administrators

September 20, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: CC Docket No. 94-102, ex parte communication

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Rules, the public safety communications organizations listed above hereby comment on the proposal of Verizon Wireless for an amendment to Section 20.18(j) of the Rules on wireless E9-1-1 readiness.[1] The Verizon proposal is supported by Sprint PCS, though with certain modifications.[2]

Briefly, Verizon would clarify the implementation process of the subsection when a wireless carrier has prepared itself fully to begin Phase II installation, but finds that a local exchange carrier or PSAP or some other vendor essential to the process is not ready, for reasons beyond the control of the wireless carrier. Verizon believes

> [T]his clarification can be accomplished while preserving the *Richardson Order's* goal of requiring licensees to begin Phase II deployment in advance of actual PSAP readiness. (Letter, 1)

Sprint believes that a modified Verizon approach would allow the Commission to "resolve Sprint's outstanding Petition for Reconsideration in the *Richardson* proceeding."

We recognize that some clarification or modification of existing rules may be necessary to address some of the concerns raised by Verizon and Sprint, particularly in light of the year that has passed since the *Richardson* petitions were filed. However, in the end, as we have said previously, implementation will depend more on common-sense accommodations reached in good faith among the parties than on rule changes. Nevertheless, removal of lingering uncertainties remains a worthy objective.

Summarizing an earlier visit with Wireless Telecommunications Bureau staff on this subject, NENA and APCO suggested that "once there is a workable consensus" as to a definition of

---

[1] Letter of August 19, 2002 to Commission Secretary from John T. Scott, III.

[2] Letter of September 9, 2002 to Commission Secretary from Luisa L. Lancetti.

implementation readiness, "the problem of halting and resuming work in 'unready' areas should resolve itself because the parties probably could work out their own schedules."[3]

Therefore, we believe that any relief from the six month requirement should be contingent upon there being agreement between the carrier and the relevant PSAP that the date needs to be extended. Evidence of such an agreement can be in the form of a brief letter from the PSAP agreeing to a revised schedule. Submission of that letter to the FCC would relieve the carrier of its six month requirement, and avoid the need for enforcement action. Our concern, in this regard, is that a carrier should not have the right to extend unilaterally the compliance date because of its perception that the PSAP is not "ready" (whether due to CPE installation delays or, more likely, failure of the LEC to provide ALI database upgrades). While Sprint suggests that PSAPs and licensees "not be prohibited from reaching some other mutually agreeable implementation deadline" (Letter, 4), we believe that such an agreement is a necessary element, not an option.

We share Sprint's concern about readiness achieved late in the course of the initial six-month implementation period, but from a different perspective. Sprint is worried that readiness acquired on the 29th day of the fifth month would leave the wireless carrier "only one day to implement service." (Letter, 3) This difficulty can be overcome, we believe, by the negotiation dispensation.[4] Our concern, on the other hand, is with an implementation process that is on the brink of "cut-over" at the end of six months, but not quite there. We would not expect that a wireless carrier acting in good faith would stop work and resume it later on a 90-day or 120-day schedule. We would anticipate, instead, a common-sense reading of the proposed Sprint phrase

> not in fact capable of receiving and utilizing the data elements associated With Phase II service by the end of the six-month period specified in paragraphs (f) and (g) of this section . . .

If the capability is reasonably imminent, we think work should continue in good faith.

Verizon and Sprint both fear the unmanageable piling up of older PSAP requests caused by ILECs that don't plan to upgrade until later this fall. Both suggest, in different ways, that the proposed rule amendments be applied retroactively. Both propose, in effect, to render invalid PSAP requests that fully passed *Richardson* muster when made. Retroactive rulemaking is usually not a good idea and we cannot accept it here. We understand that there may be more ostensibly valid PSAP requests than a carrier subject to a December 2002 deadline can handle. But these need not be summarily invalidated. Orderly Phase II implementation can be accomplished by other means.

The wireless carrier's scheduling of work on PSAP implementation requests should be fair as well as practical, with due weight given to the relative age of the requests. In some cases,

---

[3] Letter of August 30, 2002 to Commission Secretary from James R. Hobson.

[4] To the extent that any wireless carrier fears the FCC's *sua sponte* enforcement against a missed waiver deadline, a brief letter from the PSAP should constitute an acceptable excuse.

however, an entire group of older requests might justifiably be passed over if the LEC serving the requesting PSAPs is demonstrably not ready to begin implementation.[5]

Put another way, neither Verizon nor Sprint has proposed any substantive change in the *Richardson Order's* definition of readiness to begin implementation. Therefore, these wireless carriers (indeed, all wireless carriers) should be prepared to honor any PSAP request that was valid under *Richardson* when made -- unless later developments (such as LEC unreadiness) prove the contrary unequivocally. Such proof would make it obvious to the requesting PSAP that immediate fulfillment of its request is not possible.

We are constrained to repeat the reminder in our August 30th letter (note 3, *supra*) that no tweaking of the rules will succeed without a workable consensus on the meaning of Phase II requirements. This is essential to any wireless carrier's decision to break off work and to any later determination to resume implementation. Thus, resolving the *Richardson* reconsideration petitions consistent with the views expressed here continues to be a priority

In the final analysis, however, no rule can overcome the inherent uncertainties in the implementation process. It is a feature of the real world, testified to by many early Phase II implementers, that the definition of readiness evolves and varies according to the peculiarities of individual serving arrangements, configurations and geographies. Not until the work starts will all the variables be identified. All the parties -- wireless carriers, PSAPs, LECS, vendors -- must be prepared for, but not deterred by, the unexpected.

Sincerely,

John R. Melcher, ENP
President, National Emergency Number Association

Thera Bradshaw
President, Association of Public-Safety Communications Officials-International, Inc.

Evelyn Bailey
President, National Association of State Nine One One Administrators

cc: All Commissioners; Barry Ohlson, WTB; John T. Scott, III; Luisa L. Lancetti

---

[5] The responses of six large ILECs to a recent FCC questionnaire on the subject should be of help to all parties in determining fair and practical wireless carrier scheduling of implementation. The information in those responses could apply by analogy to LECs not queried by the FCC.